

Notice of Allowability

Application No.

10/787,467

Applicant(s)

WHITNEY, KRISTOPHER CRAIG

Examiner

Elmira Mehrmanesh

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2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/27/07.
2. ☒ The allowed claim(s) is/are 7-12, 14-17 and 19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

This action is in response to an amendment filed on July 12, 2007 for the application of Whitney, for a "Method for achieving higher availability of computer PCI adapters" filed February 26, 2004.

Claims 7, 8, 11, 12, 14-17 and 19 have been amended.

Claims 4-6, 13, and 18 have been canceled.

Claims 7-12, 14-17, and 19 are allowed.

Claims 12, 14-17, and 19 have been renumbered to 1, 2-5, and 6 respectively.

Drawings

In response to the corrected drawing of Figure 1, the last objections have been withdrawn.

Interview Summary

In an applicant initiated telephonic interview on August 23, 2007, with a follow up interview on August 27, 2007 with the applicant's representative, Robert Berdo, the following issues were presented regarding the present application.

Discussed the examiner's amendment with respect to claims 4-19 with cancellation of claims 4-6, 13, and 18, and further amending the independent claim 12 to include the limitations of the canceled claims 4 and 13.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Berdo on August 27, 2007. The application has been amended as follows:

Claims 4-6, 13, and 18 are canceled.

As per claim 7, line 1, "claim 4" is to be replaced by –claim 12–

As per claim 8, line 1, "claim 4" is to be replaced by –claim 12–

As per claim 14, line 1, "claim 13" is to be replaced by –claim 12–

Claim 12 has been amended to include the limitations of the canceled claims 4 and 13. The following recites the amended claim 12:

A method for optimizing processor utilization and fault recovery in a computer system having a system processor, an input/output processor, and an input/output adaptor connected to the system processor and the input/output processor, the input/output adapter being configured to be dynamically switchable between being controlled by the sys processor and being controlled by the input/output processor, the method for optimizing utilization comprising:

determining computer system utilization;

and switching control of the input/output adapter from a first one of the system processor and the input/output processor to a second one of the system processor and the input/output processor, if it is determined that the first one of the processors is being

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over utilized and that the second one of the processors has sufficient capacity that switching control of the input/output adapter will not adversely affect system throughput;

wherein switching control of the input/output adapter from the first one of the processors to the second one of the processors is further based on a determination that the over utilization, of the first of the processors is likely to continue for at least a specified period of time;

wherein the method for fault recovery comprising:

detecting a failure or malfunction in the input/output processor;

and switching the input/output adapter to control by the system processor if the input/output adapter is being controlled by the input/output processor when the failure or malfunction is detected.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

After a complete search of all the relevant prior art the examiner has determined the claims are in condition for allowance. The following limitations when viewed in combination with the remainder of the claim as a whole, place this application in condition for allowance.

As per claim 12, the Examiner finds the novel and non-obvious feature of this claim, when read as a whole to be switching control of the input/output adapter from a first one of the system processor and the input/output processor to a second one of the system processor and the input/output processor, if it is determined that the first one of

the processors is being over utilized and that the second one of the processors has sufficient capacity that switching control of the input/output adapter will not adversely affect system throughput; wherein switching control of the input/output adapter from the first one of the processors to the second one of the processors is further based on a determination that the over utilization, of the first of the processors is likely to continue for at least a specified period of time; and detecting a failure or malfunction in the input/output processor; and switching the input/output adapter to control by the system processor if the input/output adapter is being controlled by the input/output processor when the failure or malfunction is detected.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elmira Mehrmanesh whose telephone number is (571) 272-5531. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert H. Brunsch
PATENT EXAMINER
UNIT 2113
10/11/2010